

REMARKS

Claims 1-68 are herein presented. Claims 1, 4-6, 9, 11, 12, 22, 25, 27, 31, 32, 34, 41, 46, 50, 53, 54, 57-60, and 67 have been amended to obviate the informality objections and the rejections under 35 U.S.C. §112, second paragraph. Claims 63-66 have been canceled without prejudice. The independent claims have been amended to include the phrase “per se” where referring to the colored base component that is per se non-film forming. Support for this amendment can be found in the specification at page 20, line 24 to page 21, line 4. Support for the amendment to claim 3 can be found in the specification on page 9, line 24 to page 10, line 2. Accordingly, no new matter has been added.

I. Administrative Matter

Applicant requests that the Examiner act upon Applicant’s July 17, 2003 Revocation and Power of Attorney, and send the next Office Action to Applicant’s attorneys at Proskauer Rose LLP (PTO Customer Number 21890).

II. Claim Objections

Claims 5, 6, 9, 11, 12, 31, 32, 34, 41, 46, 58, 59, 60, and 67 stand objected to for informalities.

Applicant has amended the claims to obviate the objections. Accordingly, Applicant respectfully requests that the objections be withdrawn.

III. Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 1, 4, 25, 27, 53, 54, 57, 59, 60, 62, 64, and 67 stand rejected under 35 U.S.C. § 112, second paragraph for being indefinite. Applicant has amended the claims to obviate the rejections under 35 U.S.C. §112, second paragraph.

(1) *Size of Agglomerates*

Claims 1, 4, 59, 62, 64 and 67 stand rejected as allegedly vague and indefinite for failing to recite the required size of the agglomerates. Applicant has obviated this rejection by amending the claims to recite that the size distribution of the agglomerate of particles is up to 120 μ m with a Dv.50 within the range of from 15 to 75 μ m. Support for this amendment can be found in the specification on page 1, lines 17-19. Accordingly, Applicant respectfully requests that the rejections be withdrawn.

(2) *"has a higher Dv.99 or a higher Dv. 50 than...together"*

Claim 1 stands rejected as allegedly being vague and indefinite because it is unclear what is meant by the phrase "has a higher Dv.99 or a higher Dv. 50 than...together." Applicant has obviated this rejection by amending the claim to clarify that this phrase means that the component has a higher Dv.99 than the Dv.99 of the two or more colored base components (1) taken together or has a higher Dv. 50 than the Dv. 50 of the two or more colored base components (1) taken together. Support for this amendment can be found in the specification on page 5, lines 1-10. Accordingly, Applicant respectfully requests that the rejections be withdrawn.

(3) *Claim 4, component (2a)*

Claim 4 stands rejected as allegedly being vague and indefinite because the precise meaning of component (2a), lines 2-3 is unclear as to how the components meet both (and/or) limitations of the claim. Applicant respectfully traverses the rejection.

Amended claim 4 now recites that component (2a) has a higher Dv.99 than the Dv.99 of the colored base components (1) taken together and/or a higher Dv. 50 than the Dv. 50 of the

colored base components (1) taken together. One of skill in the art can appreciate that if the Dv.99 of component (2a) is higher than the Dv.99 of the colored base components (1) taken together, it follows that the Dv.50 of component (2a) is usually also higher than the Dv.50 of the colored base components (1) taken together. Thus, component (2a) can meet both (and/or) limitations of the claim. Support for this argument can be found in the specification on page 5, lines 1-5. Accordingly, Applicant respectfully requests that the rejections be withdrawn.

(4) Conditions of film forming

Claims 25, 27, 53, 54 and 57 stand rejected as allegedly being vague and indefinite for failing to recite the conditions of film forming. Applicant has obviated this rejection by amending the claims to recite that the components are compatible or incompatible during film formation when heated at a temperature in the range of from 90° to 280° C. Support for this amendment can be found in the specification on page 23, line 17 to page 24, line 6. Accordingly, Applicant respectfully requests that the rejections be withdrawn.

(5) Dv of the Colored Base Components

Claims 54 and 64 stand rejected as allegedly being vague and indefinite for failing to recite the Dv of the colored base components. Applicant has obviated this rejection by amending claim 54 to recite that the Dv. of the colored based components is no more than 30μm. Support for this amendment can be found in the specification on page 4, lines 24-26. Claim 64 has been canceled without prejudice. Accordingly, Applicant respectfully requests that the rejections be withdrawn.

(6) *“Each having a Higher Dv.99”*

Claim 50 stands rejected as allegedly being vague and indefinite because the meaning of “each having a higher Dv.99” is unclear. Applicant has obviated this rejection by amending the claim to clarify that the one or more uncolored film-forming components each have a higher Dv.99 than the Dv.99 of the colored base components or a higher Dv.50 than the Dv.50 of the colored base components. Support for the amendment can be found in the specification on page 5, lines 1-11. Accordingly, Applicant respectfully requests that the rejections be withdrawn.

IV. Rejection of Claim 63 under 35 U.S.C. § 102(b) or, in the alternative, under 35 U.S.C. § 103(a)

Claim 63 stands rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over EP 459048 or EP 372860. Applicant has obviated this rejection by canceling claim 63 without prejudice. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

CONCLUSION

Applicant respectfully submits that the present application is in condition for allowance.
Favorable consideration of the application as amended is respectfully requested.

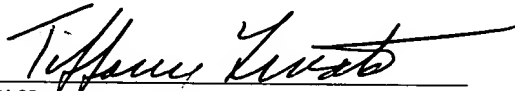
The Commissioner is authorized to charge any fee due, or credit any overcharge as a
result of this Amendment and Response to Deposit Account No. 16-2500.

Respectfully submitted,

Proskauer Rose LLP

Date: November 26, 2003

By


Tiffany A. Levato
Attorney for Applicants
Registration No. 50,160

Proskauer Rose LLP
Patent Department
1585 Broadway
New York, NY 10036-8299
Tel. (212) 969-3686 (direct)
Fax (212) 969-2900